

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12-cv-743-FDW**

**KEVIN N. BROWER,**

**Plaintiff,**

**v.**

**BOB LEWIS, Director of Prisons, North  
Carolina Dept. of Public Safety;  
LAWRENCE PARSONS, Administrator  
of Lanesboro Correctional Institution;  
KORY DALRYMPLE, Assistant  
Superintendent of Programs, Lanesboro,  
Correctional Institution; GLENN  
KINNEY, Unit Manager, Lanesboro  
Correctional Institution; RICKY  
HUTCHINGS, Officer, Lanesboro  
Correctional Institution; PAUL WOODS,  
Officer, Lanesboro Correctional  
Institution; KEARRY HINSON, Officer,  
Lanesboro Correctional Institution;  
BRANDON DECKER, Officer, Lanesboro,  
Correctional Institution; STEPHANIE  
MILLER, Officer, Lanesboro Correctional  
Institution, et al.,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court on its own motion.

Plaintiff, who is a prisoner of the State of North Carolina, filed a complaint pursuant to 42 U.S.C. § 1983, by and through counsel, and service was ordered upon the defendants following the Court's initial review pursuant to 28 U.S.C. § 1915A(a). Plaintiff was later granted an additional 45-days to serve process upon the defendants in their individual capacity after it appeared that the U.S. Marshals Service had not been able to serve the defendants. (3:12-cv-743,

Doc. No. 17: Order). The U.S. Marshals Service, through Keisha Staton, later filed notice that service was not perfected during this 45-day time period. (Id., Doc. Nos. 19-28). Since that notice was filed by the U.S. Marshals Service, Plaintiff has not petitioned the Court for additional time to serve the defendants.

Rule 4(m) of the Federal Rules of Civil Procedure provides that if “a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own motion after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” The rule further provides that if plaintiff shows good cause for the failure to serve the complaint within 120 days, “the court must extend the time for service for an appropriate period.” Id.

### **ORDER**

The Court will order that Plaintiff file a response which explains which defendants have been served, and specify that if the defendants have been served, whether they were served in their individual or official capacity or both. If defendants have not been served, Plaintiff should explain why this case should not be dismissed for failure to secure additional time for service under Fed. R. Civ. P. 4(m). Plaintiff shall file a response consistent with this order within 20-days from its entry. Failure to do so will result of dismissal of this action without prejudice and without further notice.

**IT IS SO ORDERED.**

Signed: July 8, 2015



Frank D. Whitney  
Chief United States District Judge

